

REMARKS:

The claims in the application are 1-26 and 27-33 added by the present amendment.

Favorable reconsideration of the application as amended is respectfully requested.

Claims 1-4, 6, 8, 9, 11 and 18 have been amended to eliminate the rejection under 35 U.S.C. §112, second paragraph, raised at the top of page 3 of the Final Office Action. Claim 27 introduced herein finds support, e.g., in the first paragraph on page 4 of the specification, while Claims 28 and 29 find support, e.g., on pages 2-3 of the specification. Claims 31-33 find support in the first paragraph on page 6 of the specification.

Claim 1 has been rejected under 35 U.S.C. §112, first paragraph, at the top of page 1 of the Final Office Action, as allegedly lacking enablement. Additionally, all Claims 1-26 have been rejected under 35 U.S.C. §103 as obvious over U.S. Pat. No. 4,511,229 to Schwartz et al in view of U.S. Pat. No. 4,977, 521 to Kaplan on pages 3-7 of the Final Office Action. To address both these rejections, an unsigned copy of a Declaration presently being executed by inventor Franz Josef Gassmann, is enclosed; the executed Declaration will be forwarded to the Patent and Trademark Office as soon as received.

The features and advantages provided by the presently claimed invention are described in paragraphs 3-8 of the enclosed Declaration. More specifically, the present invention reduces errors caused by aging and temperature dependence of film. This is accomplished by creating and recording one or more white light spots or signals at the time a picture is taken. This recorded light signal has nothing to do with source light illuminating a scene being photographed (paragraph 7 of the enclosed Declaration).

The rejection of Claim 1 under 35 U.S.C. §112, first paragraph, is explicitly addressed in paragraphs 9-12 of the enclosed Declaration. As stated in paragraph 9 of the Declaration, the first paragraph on page 4 of the specification explicitly states the media generate a light signal with known spectral intensity distribution or chromacticity coordinates and recorded on the recording medium in the camera to create a reference signal by which the recording is calibrated. Compensating aging and temperature differential is also described on pages 2-3 of the specification (paragraph 10 of the Declaration). Additionally, it is stated on page 6 of the specification that during development of film, the spectral range is only exposed until the white light spot is appropriately white.

Therefore, it is stated by Mr. Gassmann in paragraph 11 of his Declaration, the exposure process described on page 6 of the specification only makes sense if the reference signal is recorded at the same time a picture is taken. Accordingly, Mr. Gassmann concludes, in paragraph 12 of his Declaration, the disclosure found in the present application clearly teaches one skilled in the art that reliable reproduction of color or brightness information can only be attained if the reference signal, i.e., one or more white light spots, is taken at the same time a picture is taken.

The combination of Schwartz et al with Kaplan is addressed in paragraphs 13-20 of the enclosed Declaration. As stated in paragraph 13, Schwartz et al fail to show or suggest application of media creating one or more white light spots. Schwartz et al disclose three filters, with light passing by fiber optic bundles to the film margin after passing the filters. Such arrangement is unreliable because the filters might differ in quality, light distribution the filters might not be uniform and the fiber bundles might not possess equal length. Furthermore, it is impossible to use a film possessing more than three layers in such apparatus which is directed to recording parameters describing illuminating conditions. In contrast, the presently claimed invention operates independently of illumination conditions.

Furthermore, as pointed out in paragraphs 14 and 15 of the enclosed Declaration, the present invention functions independently from the illuminating conditions which must be recorded in Schwartz et al every time such conditions change. If such conditions remain constant, then there is no need for a photographer to further record any parameters. Accordingly, Schwartz et al is unsuitable for detecting or compensating for aging of photographic film. Kaplan fails to remedy the deficiencies in Schwartz et al for the reasons addressed in paragraphs 16-19 of the enclosed Declaration.

More particularly, is directed to reducing noise in photographic emulsions and has nothing to do with compensating declining sensitivity of film. As explicitly stated in paragraph 16 of the Declaration, there is no suggestion in Kaplan of recording a white light spot at the same time a picture is taken. It is pointed out by Mr. Gassmann, column 5, line 66- column 6, line 11 of Kaplan teach exposing one from by the film development laboratory or during manufacture, but not by the photographer at the time a picture is taken.

Furthermore, Kaplan is explicitly directed to utilizing negative color dye Dn and positive color dye Dp to reduce noise, requiring complicated, expensive equipment. Thus, Kaplan is only concerned with noise formation and fails to contemplate aging effect. It is concluded by Mr. Gassmann in paragraphs 18 and 19 of his Declaration, there is no logical reason to relate collecting illuminating conditions (Schwartz et al) with noise reduction (Kaplan). Schwartz et al cannot be used to further reduce noise, while Kaplan cannot be used to enhance retrieval of illuminating information.


In fact, using the apparatus of Schwartz et al to determine specific histogram functions of a film would destroy the noise reduction effect of Kaplan. This is described in paragraph 19 of the Declaration, where exposing the film to the exposure level gray scale mask illuminated by the source light illuminating a scene will result in varying histogram functions unsuitable for noise reduction. Accordingly, Mr. Gassmann concludes, in paragraph 20 of his Declaration, even if he could logically consider and combine the teachings of Schwartz et al and Kaplan, such a combination of different methods and systems would fail to provide an enhanced system or method for solving time-dependent aging of film.

The remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions. A petition for an automatic three month extension of time for response under 37 C.F.R. §1.136(a) is enclosed in triplicate together with the requisite petition fee, fee for additional claims and RCE fee.

Early favorable action is earnestly solicited.

Respectfully submitted,

  
George M. Kaplan  
Registration No.: 28,375  
Attorney for Applicant(s)

**DILWORTH & BARRESE, LLP**  
333 Earle Ovington Blvd.  
Uniondale, New York 11553  
(516)228-8484